

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 830 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

DHANABHAI NARANBHAI VAGHRI

Versus

EMNABAI HASAM SUMRA

Appearance:

MS SADHANA SAGAR for Petitioner

None present for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/11/1999

ORAL JUDGEMENT

1. Learned counsel for the petitioner submits that the Civil Revision Application is not maintainable against the judgment and decree of the court below (first appellate court), but second appeal lies to this court. She submits that the petitioner has already filed an application for conversion of this Civil Revision Application in Second Appeal.

2. This application is not on the board today. However, I do not find any ground to grant this prayer made by the petitioner. Section 115 of the Civil Procedure Code, 1908 is very clear, the revision under this provision is maintainable only where against the impugned judgment and decree or order no appeal does lie. After going through the judgment of the District Judge, Jamnagar, which is made in Regular Civil Appeal, is appealable under section 100 of the Civil Procedure Code, 1908. This revision application is not maintainable. This Civil Revision Application filed by the petitioner deserves to be dismissed only on this ground.

3. So far as the prayer of conversion of this Civil Revision Application in the Second Appeal is concerned, it is suffice to say that, it cannot be permitted, more so, where it is open to the petitioner to file Second Appeal. If the limitation to file appeal is expired this court has jurisdiction to condone the same in a case where a good cause is made out for condonation thereof.

4. In the result, this Civil Revision Application is dismissed only on the ground that it is not maintainable. However, dismissal of this Civil Revision Application will not come in the way of the petitioner to file the Second Appeal. Rule discharged. Interim relief, if any, granted stands vacated. No order as to costs.

(S.K.Keshote,J.)
(pathan)